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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,845	04/12/2004	Patrick Valette	104710	1729
38598	7590	03/19/2007		
ANDREWS KURTH LLP 1350 I STREET, N.W. SUITE 1100 WASHINGTON, DC 20005			EXAMINER NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,845	<b>Applicant(s)</b> VALETTE ET AL.	
	<b>Examiner</b> CUONG H. NGUYEN	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/19/06 (the 2<sup>nd</sup> IDS).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 17, 24, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This Office Action is the answer to the IDS received on 3/10/2006, which paper has been placed of record in the file.

2. Claims 1-36 are pending in this application.

#### *Claim Rejections - 35 USC § 112*

3. Claims 1, 17, 24, 35, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being unclear for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

This claim is directed to a method/system for communicating and interfacing with a monitoring system on an aircraft; comprising a vague step of:

“Using the processing power embedded in the storage card to detect whether the ACMS report is generated”; or is “the processing power” merely a number for further calculation? (because that is “embedded” data in a storage card - it is unclear because “the processing power” should not be embedded – is that “power consumes on the storage card” ? is there a require comparison step before knowing that the consumed power is different? there is no clear explanation in the disclosure for this limitation; can it be assumed that merely a comparison is made here (comparing “a processing power” and a normal level of power consumption).

Claims 12-14 also say “... the ACMS report is generated when a ground speed of the aircraft reaches zero”, or “cargo doors of the aircraft are open” or, “...engine fuel flow reaches zero” (i.e., the aircraft’s engine completely stops); however, the parent claim 1 already detects the generation of the ACMS report – there is a conflict between these claims 12-14, and their parent claim 1.

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4. Claims 2-16, 18-22, and 25-34 are objected because of dependencies.
5. The examiner also respectfully submits that there is a restriction on patentably distinct species, as shown below:

***Election/Restrictions***

6. This application contains claims directed to the following patentably distinct species of the claimed invention:

A. Species I: Claims 1-23, and 35-36 are directed to a method for remotely communicating and interfacing with a monitoring system on an aircraft, with US classification 701/14

B. Species II: Claims 24-34 are directed to a unique physical system containing an aircraft condition-monitoring card (ACMS), and a wireless network to transmit ACMS data, having US classification 701/29.

The applicants are request to select or modify claim(s) so that a unique species/claims is defined according to a unique invention.

The pending generic claims are not patentable because general wireless data communication (generic) is obvious with Brinkley et al. (US 2003/0003872 A1); therefore, it does not provide an inventive concept.

Please see also MPEP 806.04(c) of a definition for Subcombination Not Generic to Combination. This situation is frequently presented where two different combinations are disclosed, having a sub combination common to each.. This was recognized in Ex parte Smith, 1888 C.D. 131, 44 O.G.1183 (Comm'r Pat.1888), where it was held that a sub combination was not generic to the different combinations in which it was used.

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Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Upon the allowance of a generic claim, applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicants must indicate which are readable upon the elected species. MPEP § 809.02(a).


Should applicants traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759 (email address: cuong.nguyen@uspto.gov). The examiner can normally be reached on 9:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6956.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CUONG NGUYEN  
PRIMARY EXAMINER